

AGREEMENT FOR THE INTEGRATION OF
MEDICAL CENTER OF INDEPENDENCE, INC. ✓
AND ITS SUBSIDIARIES INTO THE
RESEARCH HEALTH SERVICES SYSTEM

THIS AGREEMENT is made and entered into on the 22nd day of January, 1991, by and between MEDICAL CENTER OF INDEPENDENCE, INC., a Missouri not-for-profit corporation (hereinafter referred to as "MCI"), and RESEARCH HEALTH SERVICES, a Missouri not-for-profit corporation (hereinafter referred to as "RHS").

- W I T N E S S E T H -

WHEREAS, MCI is a Missouri not-for-profit corporation which is exempt from income taxation under §501(c)(3) of the Code and which operates a 210 licensed bed acute care hospital located at 17203 E. 23rd Street, Independence, Missouri;

WHEREAS, RHS is exempt from federal income taxation under §501(c)(3) of the Code and serves as the parent holding company for the Research Health Services System ("RHSS"), which is a comprehensive integrated system of organizations dedicated to the delivery of health care services to the Kansas City metropolitan area and the surrounding region, and which includes general acute care hospitals and related services, mental health services, physician clinics and office facilities, outreach clinical and support services, outpatient care and wellness activities, occupational health clinics, and other health care related activities;

WHEREAS, MCI and RHS previously signed a Letter of Intent, dated August 8, 1990 (the "Letter of Intent"), which established principles of agreement for the intended integration of MCI and its subsidiaries into RHSS, resulting in MCI becoming a "sister" corporation of RESEARCH MEDICAL CENTER ("RMC") on the same subsidiary level as RMC within RHSS;

WHEREAS, the parties now desire to establish their complete agreement regarding the proposed integration of MCI and its subsidiaries into RHSS;

NOW, THEREFORE, in consideration of the foregoing and the mutual covenants hereinafter set forth, the parties agree as follows:

ARTICLE I

AGREEMENT TO INTEGRATE MCI AND SUBSIDIARIES INTO RHSS

Section 1.1 Continuation of Facility Presence in Independence. Following the Closing Date (as defined in Section 5.1 hereinafter), the parties intend that MCI will continue to maintain and operate a full service acute care hospital offering the services which it presently offers at its present location ~~for a minimum of ten (10) years~~, so long as continued operation of such a facility is financially feasible, and subject to regulatory, marketplace, and health care industry changes generally which materially impact the delivery of acute care services at MCI. X

Section 1.2 The Strategic Plan. Prior to Closing, the parties will develop and mutually agree upon a future strategic and financial plan for MCI as a member of RHSS, which plan may include plans for managed care network participation, physician recruitment and contracting strategies, specific marketing strategies and action plans, and the development, modification, or enhancement of new and existing hospital services offered at MCI. The strategic and financial plan will include the scope, financing and timing for all such matters.

Section 1.3 System Support. Subsequent to the Closing Date, RHSS corporate staff services will be made available to the CEO and appropriate staff of MCI. RHSS staff support that will be available to MCI includes managed care relations, physician recruitment and contracting strategies, marketing, public relations, finance, risk management, insurance programming, strategic planning, and information services, among others. These corporate staff support services will serve as an adjunct to the management within MCI. At the present time, the corporate staff services are furnished to subsidiaries without cost and there are no present plans to change this policy. However, RHSS reserves the right to allocate such costs to all of its subsidiaries if required to do so by taxing authorities or for other purposes deemed to be in the best interests of RHSS. Any such allocation will be based upon a reasonable accounting method approved by the certified public accounting firm which renders the audit opinion on the RHSS consolidated financial statements.

Section 1.4 Operational Considerations and Management Structure. Attached as EXHIBIT A to this Agreement are provisions with respect to operations and management of MCI within RHSS which are incorporated by this reference herein. These provisions shall become effective upon the Closing Date.

Section 1.5 Medical Staff. The Medical Staff of MCI is and following Closing shall remain a completely separate, internally autonomous, self-governing Medical Staff responsible only to the MCI Board of Directors in accordance with the Medical Staff By-Laws and applicable Missouri law. MCI Medical Staff shall have no direct organizational or official interrelationship with any of the other hospitals within the RHS System. MCI and RHS recognize and mutually acknowledge that MCI shall continue to work independently with its Medical Staff and Medical Staff organizations, including all hospital based and other contract physicians as in the past, to foster effective, efficient, high quality local patient care.

Section 1.6 Hospital Auxiliaries. The MCI Auxiliary shall remain responsible solely to MCI, and shall remain completely separate and apart from any other RHSS hospital auxiliary, and shall have no direct organizational or official interrelationship with the auxiliary of any other hospital. MCI and RHS mutually acknowledge that MCI shall continue to work independently with its existing Auxiliary as in the past to further broad-based community support for MCI, for the mission of MCI, and for the delivery of high quality patient care in the Independence community.

Section 1.7 MCI Representation on RHS Board. Subject to the terms and conditions hereinafter set forth and only upon satisfaction of the conditions to closing established by this Agreement, on the Closing Date RHS shall amend its By-Laws as appropriate and necessary to provide that a Director of the reorganized MCI Board of Directors shall serve as a permanent member of the RHS Board of Directors. The initial MCI representative to serve on the RHS Board of Directors shall be the individual named on EXHIBIT B attached hereto and shall be elected by RHS on the Closing Date. The successors to such MCI representative on the RHS Board shall be nominated by the local members of the MCI Board subject to election by the RHS Board. If the RHS Board rejects any MCI nominee, then nominations will again be made by the local members of the MCI Board.

Section 1.8 Changes to Governing Structure of MCI. Subject to the terms and conditions hereinafter set forth and only upon satisfaction of the conditions to closing established by this Agreement, on the Closing Date MCI shall amend its Articles of Incorporation and/or By-Laws as appropriate and necessary to:

- (a) Become a membership corporation under Revised Statutes of Missouri, Chapter 355, and to elect RHS as the sole member of MCI with the authority to elect the Board of Directors of MCI (as specified in Section 1.9 below) and with all other rights and privileges of a sole member of a not-for-profit corporation organized under R.S.Mo. Chapter 355;

(b) Require that upon dissolution of MCI, all of the remaining assets after satisfaction of outstanding debts will be distributed to such organization exempt from federal income tax under Internal Revenue Code §501(c)(3), or any successor provision thereto, as MCI may designate by resolution of the MCI Board, subject to approval of RHS as sole member;

(c) Adopt the RHSS levels of approval authority for capital expenditures and consulting and legal fees. Currently, for MCI this will mean the levels of approval authority shown on EXHIBIT C attached hereto will be applicable;

(d) Require that annual budgets adopted by the Board of MCI, and its subsidiaries be subject to reasonable approval by RHS; and

(e) Establish such other legally appropriate provisions as mutually agreed by MCI and RHS which are consistent with the foregoing.

Section 1.9 Amended Article and Bylaw Provisions Regarding Election, Removal, Qualifications and Tenure of MCI Directors.

(a) The amended Articles of Incorporation and Bylaws of MCI shall establish a ten (10) member Board of Directors of which one (1) shall be an ex-officio Medical Staff member (i.e., the then President of the MCI Medical Staff), three (3) shall be nominated by RHS, and six (6) shall be nominated by the remaining members of the Board and who shall be representative of the MCI service area. These 6 directors are herein referred to as the "local" Board members. All nominees to the MCI Board shall be subject to election or rejection by RHS as sole member, and RHS shall act upon nominations within 60 days after receipt of same. If RHS shall reasonably fail to elect any local nominee, then RHS must again obtain nominations from the local members of the MCI Board for any position which RHS so fails to fill. In such event, the local members of the MCI Board shall have a period of 30 days to submit a different nominee for election by RHS. RHS shall have a period of 30 days after the new nominee is submitted to elect or fail to elect the new nominee. This procedure shall be repeated as often as necessary until a nominee submitted by the local board members is elected by RHS;

(b) The amended Bylaws of MCI shall provide that all elected Directors shall serve three-year staggered terms with three (3) Directors' terms expiring each year (one (1) RHS nominee and two (2) local nominees). Directors' terms of office will expire at the end of the stated term, and

directors will not continue to serve thereafter unless renominated and elected in the usual manner;

(c) The initial Board of Directors to serve following the closing shall be the individuals named on EXHIBIT B attached hereto and shall serve for the designated one-, two- or three-year term shown on said EXHIBIT B;

(d) The ~~amended~~ Bylaws shall provide that RHS, as sole member, may ~~remove~~ Directors ~~who are not~~ acting in the best interests of the corporation; provided, however, that removal of any local Director will require the concurring vote of a majority of the remaining members of the Board. The successor to any Director who is removed, resigns or otherwise ceases to be a Director will be nominated by RHS, or by the local members of the MCI Board, whichever entity had originally nominated the removed, resigned or otherwise terminated Director. The nominating procedure described in subparagraph (a) above will apply upon resignation, removal or other early termination of a Director's position on the Board;

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(e) RHS has established age 70 as the maximum age at which a director may be nominated and elected to serve on the Board of Directors of any RHSS entity. MCI agrees that its amended Bylaws will include this maximum age of service provision except that (i) the local members of the initial MCI Board shall not be subject to such limitation for their first term of office; and (ii) any local members of the initial MCI Board who are over 65 years of age on the closing date, may continue to be nominated for election to the MCI Board until age 75; and

(f) The parties acknowledge that RHS is currently studying and considering implementation of a limit on successive terms of service on the Boards of Directors of RHSS entities. Upon approval by RHS of any such limitation on Board service, MCI agrees to amend its Bylaws to adopt the RHSS limitation on successive Board terms, except that the local members of the initial MCI Board shall be exempted from the successive term limitation.

Section 1.10 Governance of MCI Subsidiaries. Subject to the terms and conditions hereinafter set forth and only upon satisfaction of the conditions to closing established by this Agreement, on the Closing Date the MCI subsidiaries shall amend their Articles of Incorporation and/or By-Laws as appropriate and necessary to:

(a) Provide that MCI shall be the sole shareholder of all subsidiaries of MCI under Revised Statutes of Missouri, Chapter 351, with the authority to elect the Board of

Directors and with all other rights and privileges of a sole shareholder of a corporation organized under R.S.Mo. Chapter 351;

(b) Adopt the RHSS levels of approval authority for capital expenditures and consulting and legal fees. Currently, this will mean the levels of approval authority shown on EXHIBIT D attached hereto will be applicable;

(c) Require that annual budgets adopted by the Boards of the MCI subsidiaries be subject to approval by MCI and RHS; and

(d) Establish such other legally appropriate provisions as mutually agreed by MCI and RHS which are consistent with the foregoing.

Section 1.11 Transition to Integrated Health Care System.

The parties acknowledge that their ultimate objective and intent is to work toward an integrated, cost-effective health care system to provide quality health care for the community. It is intended that the provisions of Sections 1.7 through 1.10 of this Agreement will help facilitate this transition and it is believed that five (5) years may be sufficient time for these provisions to serve their intended purpose. Therefore, at the first regular MCI Board meeting in January, 1996, and at least annually thereafter, the MCI Board will consider (a) whether or not the transition is completed, and (b) whether to adopt changes to its Articles of Incorporation and Bylaws which RHS recommends as in the best interests of the integrated RHS System as a whole. If the MCI Board concurs that transition is complete, then the RHS Board may amend the RHS Bylaws to implement any decision it considers appropriate regarding MCI representation on the RHS Board.

Section 1.12 Quorum Contract. RHS acknowledges that MCI is under a contract with Quorum Health Resources, Inc. ("Quorum") for provision of management services to MCI, which contract is for an initial term expiring on January 1, 1995. The parties agree to jointly evaluate Quorum's performance under the contract and agree that no decision with respect to such contract may be made without concurrence of MCI and RHS.

ARTICLE II

REPRESENTATIONS

Section 2.1 Representations of MCI. MCI represents and warrants as follows:

(a) Organization and Existence. MCI, and the subsidiaries of MCI are corporations duly incorporated, validly existing, and in good standing under the laws of the State of Missouri, and are in good standing in all other jurisdictions in which they are required to be qualified to do business as a foreign corporation.

(b) Authorization, Etc. The execution, delivery and performance by MCI of this Agreement and all related instruments, agreements, and documents has been duly authorized by MCI. The execution, delivery and performance by MCI of these instruments, agreements, and documents is within its corporate power, has been duly authorized by all necessary corporate action, and is not prohibited, restricted, or inhibited by (i) its Articles of Incorporation or By-laws; or (ii) any material law, indenture, contract, instrument or agreement which is binding on MCI, or any of its subsidiaries (other than contracts for which appropriate consents to this transaction have been or prior to Closing will be obtained). In addition, consummation of the transactions described in this Agreement will not result in any material adverse impact upon the business, finances, prospects, relationships, or agreements of MCI, or any of the subsidiaries of MCI.

(c) Approval of Governmental Bodies. No authorization or approval or other action by, and no notice to or filing with, any governmental authority or regulatory body is required for the due execution, delivery and performance by MCI of this Agreement and all related agreements, instruments and documents other than pre-closing notification to the Federal Trade Commission under the Hart-Scott-Rodino Pre-Merger Notification Act and such approvals as have been or prior to Closing will be obtained by MCI.

(d) Enforceability of Obligations. This Agreement and all related agreements, instruments and documents are, or upon execution at the Closing will be, legal, valid and binding obligations and enforceable against MCI, as applicable in accordance with their respective terms, except to the extent of applicable bankruptcy, moratorium, insolvency, reorganization and other laws and legal principles affecting or limiting creditors' rights generally.

(e) Insider Interests. Except as disclosed on SCHEDULE 2.1(e), no present officer or director of MCI or any of its subsidiaries (a) owns, directly or indirectly, in whole or in part, any of the properties used in their businesses, (b) has received a loan or advance from any of them which is currently outstanding, (c) has any obligation to make any loan to any of them, or (d) has any other

business relationship with MCI or its subsidiaries other than in his or her capacity as an officer or director. No present officer or director of MCI or its subsidiaries owns, directly or indirectly, in excess of 5% of, or controls, or is an employee, officer, director or partner of, or participant in, or consultant to, any corporation, association, partnership, limited partnership, joint venture, or other entity which is a competitor of MCI or any subsidiary of MCI.

(f) Financial Statements and Records. Consolidated balance sheets of MCI as of December 31, 1989 (audited), and as of all month end reporting periods since December 31, 1989 (unaudited), and the related consolidated statements of income and retained earnings and changes in financial position for the periods then ended, and the separate balance sheets and related statements of income and retained earnings and changes in financial position for each MCI subsidiary for their corresponding fiscal year ends and end of month reporting periods, copies of which have been furnished to RHS, fairly present their financial conditions as of such dates and the results of operations for the periods ended on such dates, all in accordance with generally accepted accounting principles which have been applied on a basis consistent with that of the preceding period; and since October 31, 1990, there has been no material adverse change in such conditions or such operations except those described in SCHEDULE 2.1(f) hereto. The unaudited combined balance sheets for MCI and the separate statements for each subsidiary as of October 31, 1990, and the unaudited combined statements of operations for the month ended October 31, 1990 and the audited combined balance sheet and combined statements of operations for the fiscal year ended December 31, 1989, copies of which have been furnished to RHS, are based upon accurate information and reasonable assumptions. To its best knowledge and belief, except as disclosed in letters to management from independent auditors, all of the books and records of MCI and its subsidiaries, including but not limited to their stock record books, minute books, By-laws, financial records, and books of account, are accurate and complete in all material respects.

(g) Compliance with Law and Other Regulations. To its best knowledge and belief, MCI, its subsidiaries and their activities as presently conducted are substantially in compliance with the requirements of all governmental bodies or agencies having jurisdiction over them, the conduct of their business, the use of their properties and assets, and all premises occupied by them, and, without limiting the foregoing, to its best knowledge and belief MCI and its subsidiaries have all required licenses, permits,

certificates, registrations and authorizations needed for the conduct of their business and the use of their properties and the premises occupied by them. SCHEDULE 2.1(g) sets forth each such material license, permit, certificate, registration, or authorization, and the applicable expiration date, if any. MCI has delivered or made available or will prior to Closing deliver or make available to RHS true and correct copies of such licenses, permits, certificates, registrations or authorizations, as well as the most recent fire, safety and other inspection reports relating to the businesses operated by MCI and its subsidiaries. To its best knowledge and belief, there is no act or omission on the part of MCI or its subsidiaries occurring on or before the date hereof which would subject any of them to the likelihood of any fine or suspension. Except as set forth in SCHEDULE 2.1(g), MCI and its subsidiaries have not received any notice, except those complied with by them or waived by the responsible authority, from any federal, state or other governmental authority or agency having jurisdiction over their properties or activities, or any insurance or inspection body, that their operations or any of their properties, facilities, equipment, or business procedures or practices fail to comply with any applicable law, ordinance, regulation, building or zoning ordinance, code, or regulation, or requirement of any public authority or body.

(h) Litigation. Except as disclosed on SCHEDULE 2.1(h), there is no pending or, to its best knowledge and belief, threatened action or proceeding to which MCI or its subsidiaries is or would be a party before any court, governmental agency or arbitrator, an adverse determination of which would have a material adverse effect upon any of them.

(i) Fraud and Abuse. MCI and its subsidiaries have not received any notice of any investigation nor is any of them the subject of any pending action or proceeding which alleges that any of them have engaged in any activities which are prohibited under federal statutes Medicare, 42 U.S.C. §1395h(a), or Medicaid, 42 U.S.C. §1396h(a), or the regulations promulgated pursuant to such statutes or related state or local statutes or regulations or which are prohibited by rules of professional conduct, including, but not limited to, any notices or pending investigations or proceedings which allege that any of them has engaged in any of the following: (i) knowingly and willfully making or causing to be made a false statement or representation of a material fact in any application for any benefit or payment; (ii) knowingly and willfully making or causing to be made any false statement or representation of a material fact for use in determining rights to any benefit or payment; (iii)

failure to disclose knowledge by a claimant of the occurrence of any event affecting the initial or continued right to any benefit or payment on its own behalf or on behalf of another, with intent to fraudulently secure such benefit or payment; (iv) knowingly and willfully soliciting or receiving any remuneration (including any kickback, bribe or rebate), directly or indirectly, overtly or covertly, in cash or in kind or offering to pay such remuneration (A) in return for referring an individual to a person for the furnishing of any item or service for which payment may be made in whole or in part by Medicare or Medicaid, or (B) in return for recommending, purchasing, leasing or ordering any good, facility, service or item for which payment may be made in whole or in part by Medicare or Medicaid.

(j) Existing Indebtedness. To its best knowledge and belief, MCI and its subsidiaries do not have any material existing indebtedness of any type except (i) that which was set forth on the combined unaudited balance sheets of MCI and its subsidiaries as of October 31, 1990, (ii) that which was incurred in the ordinary course of business since such date, and (iii) that which is described on SCHEDULE 2.1(j) hereto.

(k) Leases. MCI and its subsidiaries have no interest, either as lessee or lessor, in any existing material leases of personal or real property which are not terminable on 30 days notice, except as described on SCHEDULE 2.1(k) hereto, which schedule shall be updated and delivered to RHS at the time of any material change in the leases described therein.

(l) Outstanding Guaranties. To its best knowledge and belief, except as disclosed in SCHEDULE 2.1(l) or on the consolidated audited financial statements, MCI and its subsidiaries have no guaranties outstanding by which any of them guarantees any indebtedness or any liability of any other person or entity.

(m) Taxes; Exempt Status. To its best knowledge and belief, MCI and its subsidiaries have filed all required federal and other tax returns and paid any taxes due pursuant thereto or pursuant to any assessment received by any of them except such taxes, if any, as are being contested in good faith and as to which adequate reserves have been provided. Except as disclosed on SCHEDULE 2.1(m), no audit of any federal, state or city income tax returns or other tax returns of MCI or any of its subsidiaries is in progress, pending, or threatened.

True copies of all federal, state and local income tax, property tax, sales tax, Form 990, and other tax returns,

tax examination and audit reports, and statements of deficiencies assessed against or agreed to by MCI and its subsidiaries since January 1, 1987 have been provided to RHS. All such tax returns were based upon accurate information and were prepared in substantial conformity with the applicable tax laws. All deficiencies assessed against MCI and its subsidiaries have been paid or are being contested in good faith and are appropriately reserved against on the October 31, 1990 financial statements.

A copy of the Internal Revenue Service determination letter confirming that MCI is an organization exempt from federal income tax under §501(c)(3) of the Code and copies of all other exemption letters issued to MCI by taxing authorities have been provided to RHS. MCI has not received any notice of any investigation nor is it the subject of any pending action or proceeding which alleges that it is in violation of or questions its compliance with any of the requirements of §501(c)(3) of the Code or any other provision of the Code or state law which are conditions to the continued maintenance of its tax exempt status under federal or state law. Except as disclosed on SCHEDULE 2.1(m), no audit of the exempt status of MCI is in progress, pending, or threatened by any federal, state or local authority.

(n) Employee Plans; Employment Contracts; Labor Matters. MCI and its subsidiaries have, and at the Closing Date will have, no "employee pension benefit plan" as that phrase is defined in Section 3(2) of ERISA (herein called a "Plan"), except a defined contribution/benefit pension plan meeting the requirements of ERISA and the Code (herein called "Pension Plan"). MCI and its subsidiaries have, and at the Closing Date will have, no obligations, contingent or otherwise, written or oral, which are not cancelable upon thirty (30) days notice, under any employment contract, collective bargaining agreement, nonqualified pension or retirement plan, bonus plan, stock option or purchase plan, or other contract or nonterminable agreement benefiting employees generally, group insurance, group hospitalization, or other employee benefit plan other than those listed in SCHEDULE 2.1(n), true and correct copies, certificates or descriptions of which have been delivered to RHS. MCI and its subsidiaries have performed all obligations required to be performed under the Pension Plan and all such other agreements and plans and are not in default or in arrears in any material respect under any of the terms thereof. Except as set forth in SCHEDULE 2.1(n), MCI and its subsidiaries have not within the past three (3) years engaged in discussions with respect to any collective bargaining agreement and have not been the subject of any election with respect to the unionization of any of their employees, nor

are any such discussions or elections now pending, contemplated by them, or threatened by others. MCI and its subsidiaries have substantially complied with all applicable federal and state laws relating to the employment of labor, including but not limited to the provisions thereof relative to wages, hours and collective bargaining, and are not liable for any arrears of wages for failure to comply with any of the foregoing, which liability or failure to comply would have a material adverse effect upon any of them. MCI and its subsidiaries have not received any notice of noncompliance with any of the foregoing. There are no written employment contracts relating to the employees of MCI or any of its subsidiaries which are not cancelable on 30 days notice, except as set forth on SCHEDULE 2.1(n).

(o) Title to Real and Personal Property. MCI and its subsidiaries have, and at the Closing will have, good and marketable title to all property and assets purported to be owned by them, subject only to those options, rights of first refusal, liens, restrictions, encumbrances, pledges, and security interests described on SCHEDULE 2.1(o). Except as disclosed on SCHEDULE 2.1(o), the property and assets of MCI and its subsidiaries are in reasonably good condition and repair in all material respects, free of significant defects of materials or workmanship, and are without the present need for any major (ie: in excess of \$50,000 in any one instance or more than \$100,000 above the current fiscal year budget in the aggregate) replacement equipment, repairs, construction, or reconditions being required by any of them.

(p) Contracts and Commitments. Except as set forth or described in SCHEDULE 2.1(p) hereto, MCI and its subsidiaries do not have and at the Closing Date will not have any material contracts or agreements which are not cancelable upon thirty (30) days notice including, but without limiting the generality of the foregoing, any material commitments or obligations, contingent or otherwise, under any contract or agreement (i) for the purchase or sale of inventory, or (ii) for the purchase or sale of supplies, services or other items, or (iii) for the purchase or sale of any equipment or machinery, or (iv) for the performance of services for others; and at the Closing Date MCI and its subsidiaries will not have any such commitment or obligation except those incurred in the ordinary course of business, those listed in the aforesaid SCHEDULE 2.1(p), or those consented to in writing by RHS. To its knowledge, MCI and its subsidiaries have performed all obligations required to be performed under any such contract or agreement and are not in default or in arrears in any material respect under the terms thereof. Except as disclosed on SCHEDULE 2.1(p), none of them has received

